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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/676,743	09/29/2000	John C. Adler	M-9080 US	2291
33031	7590	06/02/2006	EXAMINER ELALLAM, AHMED	
CAMPBELL STEPHENSON ASCOLESE, LLP 4807 SPICEWOOD SPRINGS RD. BLDG. 4, SUITE 201 AUSTIN, TX 78759			ART UNIT 2616	

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/676,743

Applicant(s)

ADLER, JOHN C.

Examiner

AHMED ELALLAM

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This office action is responsive to Amendment filed on 3/17/2006. The Amendment has been entered.

Claims 1-29 are pending.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1. Claims 1-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding independent claims 1, 12, 21 and 29, the specification as original filed does not describe the limitation of "first network comprise the first and second nodes, the mesh node is in a network other than the first network, and the network other than the first network is a second network". See response to argument for more details.

Claims 2-11, 13-20, 22-29 respectively depends from base claims 1, 12, 21 and 29, thus they are subject to the same rejections.

Similar remarks apply to the amended dependent claims 5-8, 17-19, 25, and 26, with regard to first and second networks.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection.

Examiner noted in the previous office action that Applicants did not show support in the specification with regard to the first node, second node and mesh node. In response, Applicants amended the claims (1, 5-8, 12, 17-19, 21, 25, 26 and 29) and argued: *"the amendments to claim 1 provide additional clarity with respect to "what is meant by a mesh node in accordance with the specification."* Applicant also notes that the mesh network configuration shown in Fig. 3 and the corresponding discussion in the specification (page 15, line 22 to page 16, line 22) provide support for the amendments to the claims". Emphasis added.

The passage relied upon, specification pages 15, line 22 to page 16, line 22) recites:

Referring to Fig. 3, a block diagram illustrates an architecture in accordance with an embodiment. As shown, Fig. 3 shows a mesh network configuration 300 including routing structures 310, 320, 330, 340 and 350. Each of the routing structures include either ring or similar topologies of network nodes, such as node 360 and node 362. More specifically, each routing structure, as shown in structure 310 includes a working ring 390 and a protection ring 392. The working ring 390 transmits working channel data and the protection ring 392 transmits protect channel data such as the

protection channel access data. Protection ring 392 further transmits working data where predetermined criteria are met. For example, an APS switch could be one of the criteria used to determine whether to implement restoration of protect channel data. The routing structures are further connected through interfaces 380 through 385, which could be nodes or multiplexers or some other type of routing structure. For example, routing structures include wavelength routers, digital cross-connects, optical cross-connects, IP routers, and asynchronous transfer mode (ATM) switches. Each routing structure contributes to forming a mesh network of routing structures.

Fig. 3 further shows route 370 as a path for PCA between node 360 and node 362. More specifically, route 370 transmits SONET packets between node 360 and node 362 via the PCA network including ring 320, ring 330 and ring 340, routing interfaces 383 and 385. During a network failure, if a SONET ring switch occurs, such as an APS switch, the protection channel traffic is dropped on those facilities by the SONET architecture. More particularly, a network failure includes occurrences such as a fiber cut, multiple equipment failures, "chopped" channel characteristics, degradation of service, noisy channel and the like resulting in a determination by the network that a failure occurred. A failure typically results in a loss of signal (LOS) message across the network and typically causes automatic switching to occur. A network failure includes at least one of a section level, a line level or a path level failure of equipment. However, as other failures related to quality of service (QOS) also affect transmission lines and are generally related to bit error rates.

Applicants' argument did not show exactly where in the cited passage the newly claimed "first network" and "second network". The passage relied indicates a "mesh network configuration 300 including routing structures 310, 320, 330, 340 and 350...". The mesh network configuration 300 is so far regarded as one network, and the claimed first network and second network are not clearly pointed out. Applicant is kindly requested to point out to the first network and second network, and specify how the first node and the second node belong to the first network, while the mesh node belong to the second network, the second network other than the first network.

Examiner made an unsuccessful attempt on 05/18/2006 to contact the attorney of records in order to resolve this remaining issue of 112 1<sup>st</sup> rejections. Examiner believes that if "newly subject matter" is resolved in a manner that overcomes the teaching of Swinkels, the claims would be in a better condition for allowance.

### ***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory

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period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AHMED ELALLAM whose telephone number is (571) 272-3097. The examiner can normally be reached on 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, To Doris can be reached on (571) 272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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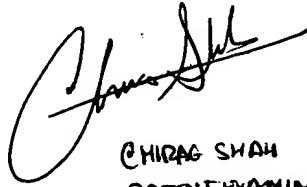
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AHMED ELALLAM

Examiner

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5/27/06

A handwritten signature in black ink, appearing to read 'Chirag Shah', is written over a horizontal line.

CHIRAG SHAH  
PATENT EXAMINER, 2616